

Not Reported in S.W.3d, 2003 WL 187434 (Tex.App.-Dallas)
(Cite as: **2003 WL 187434 (Tex.App.-Dallas)**)



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SEE TX R RAP RULE 47.2 FOR DESIGNATION
AND SIGNING OF OPINIONS.

MEMORANDUM OPINION

Court of Appeals of Texas,
Dallas.

Carolyn S. COLEMAN and Jessie J. Coleman, Individually and as Next Friends for Ebony Kennedy and Representatives of the Estate of Latresha O. Coleman, Appellants,
v.

Thomas CECIL and TEC Services, Inc. d/b/a Holloway & Associates, Appellees.

No. 05-02-01129-CV.
Jan. 29, 2003.

In suit arising out of an automobile accident in another state, defendants sought special appearance and moved to dismiss for lack of personal jurisdiction. The County Court at Law No. 5, Dallas County, granted motion. Plaintiffs appealed. The Court of Appeals, [Whittington](#), J., held that the defendants were not subject to personal jurisdiction under the due process clause and were entitled to file special appearance.

Affirmed.

West Headnotes

Appearance 31 9(2)

[31](#) Appearance

[31k7](#) Proceedings Constituting Appearance

[31k9](#) General or Special Appearance

[31k9\(2\)](#) k. Objections to jurisdiction in general. [Most Cited Cases](#)

Constitutional Law 92 3965(1)

[92](#) Constitutional Law

[92XXVII](#) Due Process

[92XXVII\(E\)](#) Civil Actions and Proceedings

[92k3961](#) Jurisdiction and Venue

[92k3965](#) Particular Parties or Circumstances

[92k3965\(1\)](#) k. In general. [Most Cited](#)

[Cases](#)

(Formerly [92k305\(5\)](#))

Courts 106 13.5(5)

[106](#) Courts

[106I](#) Nature, Extent, and Exercise of Jurisdiction in General

[106I\(A\)](#) In General

[106k13.1](#) Actions by or Against Nonresidents, Personal Jurisdiction In; "Long-Arm" Jurisdiction

[106k13.5](#) Particular Contexts and Causes of Action

[106k13.5\(5\)](#) k. Automobile accidents; nonresident motorists. [Most Cited Cases](#)
(Formerly [106k12\(2.25\)](#))

Defendants in a suit arising out of an automobile accident in another state lacked minimum contacts with Texas, were not subject to personal jurisdiction under the due process clause, and were entitled to file special appearance; the defendants' actions in investigating the accident took place in Kentucky and were not purposely directed or aimed at Texas, they did not affirmatively avail themselves of the benefits of conducting business in Texas or the protection of Texas' laws, and suit in a Texas state court was not foreseeable based upon statements during telephone conversation. [U.S.C.A. Const.Amend. 14](#).

On Appeal from the County Court at Law No. 5, Dallas County, Texas, Trial Court Cause No. cc-01-6881-e.J. [Scott Perry](#), for Carolyn S. Coleman.

[Alexander N. Beard](#) and [Roy L. Stacy](#), for Cheryl Lynn Kenndey.

Before Justices [WHITTINGTON](#), [RICHTER](#), and [FRANCIS](#).

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MEMORANDUM OPINION

Opinion by Justice [WHITTINGTON](#).

*1 Carolyn S. Coleman and Jessie J. Coleman, Individually and as Next Friends for Ebony Kennedy and Representatives of the Estate of Latresha O. Coleman appeal the trial court's order granting the special appearance and motion to dismiss for lack of personal jurisdiction filed by Thomas Cecil and TEC Services, Inc. d/b/a Holloway & Associates. In three issues, appellants contend the trial judge erred in granting appellees' special appearance because the nonresident appellees failed to negate all bases for personal jurisdiction. The facts of this case are known by the parties, and we do not recite them in detail. Because all issues are well settled, we issue this memorandum opinion. [TEX.R.APP. P. 47.4](#). We affirm the trial court's order.

The exercise of personal jurisdiction by a Texas court over a nonresident must be consistent with the guarantees of due process. [Schlobohm v. Schapiro, 784 S.W.2d 355, 356 \(Tex.1990\)](#). Due process requires that defendants not be haled into a Texas court unless their activities should have led them to reasonably anticipate being answerable there. [City of Riverview, Mich. v. Am. Factors, Inc., 77 S.W.3d 855, 858 \(Tex.App.-Dallas 2002, no pet.\)](#) To meet this requirement of foreseeability, the nonresidents must have established "minimum contacts" with the state. [Schlobohm, 784 S.W.2d at 357](#). To establish minimum contacts, nonresidents must "do something purposeful to avail [themselves] of the privilege of conducting activities in the forum, thus invoking the benefit and protection of its laws." [Schlobohm, 784 S.W.2d at 357](#).

In this case, the trial judge made the following findings of fact:

6. This case arises out of an automobile accident that took place in Kentucky, and none of the actions taken by TEC or Cecil in investigating the accident were purposely directed or aimed at Texas. All of the work performed by TEC and Cecil took place in Kentucky.

7. At no time did TEC or Cecil do anything to affirmatively avail themselves of the benefits of conducting business in Texas or the protection of Texas' laws.

8. It was not foreseeable that TEC or Cecil could or would be sued in a Texas state court based upon statements made by Cecil during an initial telephone call he received from Mrs. Carolyn Coleman.

We have reviewed the entire record and conclude there is legally and factually sufficient evidence to support the trial judge's fact findings. See [BMC Software Belgium, N.V. v. Marchand, 83 S.W.3d 789, 794 \(Tex.2002\)](#). Applying the law to the established facts, we conclude the trial judge did not err in granting the special appearance. See [City of Riverview, 77 S.W.3d at 858](#). Accordingly, we affirm the trial court's order granting appellees' special appearance.

Tex.App.-Dallas,2003.

Coleman v. Cecil

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